

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-
311		
as amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

COMMENTS OF CHICAGO ACCESS CORPORATION

These Comments are filed by Chicago Access Corporation ("CAN TV") in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, CAN TV believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

Cable Franchising in Our Community

Community Information

Chicago is a city with a population of close to three million people. Our franchised cable providers are Comcast, RCN and WideOpenWest ("WOW"). Our community has negotiated cable franchises since the early 1980s.

Our Current Franchises

Our current franchise with Comcast began in 1999 and expires in 15 years. We also have 15 year franchises with RCN, with franchises beginning in 1996 for franchise area one and 2000 for franchise area two. And with WOW for 15 years beginning in 1998.

Our franchises require the cable operators to pay a franchise fee to the City of Chicago in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have five analog channels devoted to public and educational access; and two channels devoted to government access. The cable franchises in Chicago require that 10% of channel capacity be devoted to use by CAN TV, with a channel defined as 6 megahertz of bandwidth. Two additional channels are devoted to governmental use.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator: All of the cable operators in Chicago have signed voluntary agreements with CAN TV to provide \$215,000 annually for each cable area with competition and \$250,000 for each cable area without competition. Our franchises provide for capital support for PEG Access and other public interest services in the amount of \$100,000 per year in each of years 4-7 of the cable franchises.

PEG Access Services

CAN TV has provided access services in our community for over 20 years. In our most recently completed fiscal year, CAN TV provided an average of 130 hours each week of new original local programming to the cable subscribers. Each year, over 1,000 local residents and 300 nonprofit groups are active using CAN TV equipment and facilities to create local programming.

- Educational programs that provide math education from university professors that teach children citywide by using a live, interactive television format.
- Live, interactive programs that allow experts from local nonprofit organizations to answer viewer questions about health issues, job opportunities, domestic violence, economic development, immigration, and other local issues and concerns.
- Carriage of Illinois Channel's coverage of state proceedings, judicial hearings, key committee meetings, and other issues of concern in the state legislative process.
- Carriage on the governmental access channels of city news and information, including arts programming from the City's Department of Cultural Affairs.

- Interactive community bulletin board where, using the telephone, viewers can retrieve specific community information to their tv screen.
- Coverage of community planning forums, town hall meetings, and neighborhood board meetings.
- Community-produced television programming for seniors, ethnic and cultural groups, youth, people with disabilities, and others.
- Dedicated channel capacity specifically for religious organizations to air locally-produced programming.
- Neighborhood news program the covers news and information specific to its geographic area of the city.
- Media literacy and production training for neighborhood based community organizations and individuals.
- Video production courses and facilities including studio, field, editing, and, if available, remote van.
- Support to Media Training Centers in local schools, enhancing learning opportunities for students.
- Satellite program reception and redistribution.
- Technical design, installation, and maintenance support.
- Local political coverage, candidate platform statements and candidate debates during campaign season.
- Coverage of local school board meetings.
- Distribution of community college and university programming.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once

the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law. For instance, the Chicago Cable Commission issues regular notices of hearings and meetings related to the cable operators serving the City. This includes reviews of the operators obligations to meet certain minority and women business hiring requirements. It also includes any hearings related to meeting PEG requirements in the City.

Competitive Cable Systems

Our community granted competitive franchises to RCN (formerly 21st Century) in 1996 and WOW (formerly Americast) in 1998 and those cable operators are providing service in my community today. Those agreements are substantially the same as the agreements with the incumbent operator Comcast in relation to PEG funding and channel requirements.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in Chicago. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined

through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

CAN TV therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law.

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of “Community Reinvestment” through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community’s property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

TV”)

Chicago Access Corporation (“CAN

By: Barbara Popovic
Executive Director

cc: Alliance for Community Media, Getup@alliancecm.org